

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL Y.A. WILSON,

Plaintiff,

v.

BOBBI KNAR, JOSH WICHMANN,
LISA AVILA, DEBBIE SEITZ,
ROBERT HUMPHREYS, MARILYN
ZURBUCHEN and JOHN DOE,

Defendants.

ORDER

08-cv-137-bbc

Plaintiff Michael Wilson contends that defendants detained him at two correctional facilities for several weeks in violation of his rights under the Eighth and Fourteenth Amendments. Defendants have filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6), but that motion must be denied for the simple reason that none of their arguments are properly before the court. Each of the arguments defendants raised in their brief in chief was abandoned in their reply brief and all the arguments in their reply brief were raised for the first time in that brief. Defendants did not address plaintiff's due process claim at all in their brief in chief. Because I cannot consider arguments that have been abandoned, United

States v. Farris, – F.3d. – , 2008 WL 2673113, *3 (Jul. 9, 2008), or raised for the first time in a reply brief, Nelson v. LaCrosse County Dist. Attorney, 301 F.3d 820, 836 (7th Cir.2002), the motion to dismiss filed by defendants Bobbi Knar, Josh Wichmann, Lisa Avila, Debbie Seitz, Robert Humphreys, Marilyn Zurbuchen and Art Thurmer, dkt. #137, is DENIED.

Entered this 18th day of July, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge